

Amendments to House Bill No. 763  
3rd Reading Copy

Requested by Representative Duane Ankney

For the Senate Natural Resources and Energy Committee

Prepared by Joe Kolman  
April 2, 2007 (6:21pm)

1. Title, line 4 through line 5.

**Strike:** "PRODUCED IN" on line 4 through "MONTANA" on line 5

2. Title, line 5.

**Following:** "STATE;"

**Strike:** "AND"

**Insert:** "TRANSFERRING REGULATORY AUTHORITY TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY;"

**Strike:** "SECTION 50-79-302"

**Insert:** "SECTIONS 50-79-103 and 50-79-104"

**Following:** "MCA"

**Insert:** "; AND PROVIDING EFFECTIVE DATES"

3. Page 1, line 9 through line 23.

**Strike:** section 1 in its entirety

4. Page 1.

**Following:** line 23

**"Section 1.** Section 50-79-103, MCA, is amended to read:

**"50-79-103. Definitions.** The definitions used in this chapter are intended to be consistent with those used in 10 CFR 1-171 and 49 CFR 173.401 through 173.478, subpart I. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Byproduct material" means-

(a) any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or using special nuclear material; and

(b) ~~the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.~~

(2) "Department" means the department of public health and human services.

(3) "Disposal" means burial in soil, release through the sanitary sewerage system, incineration, or permanent long-term storage with no intention of or provision for subsequent removal.

(4) "General license" means a license effective pursuant to rules promulgated by the department without the filing of an application to transfer, acquire, own, possess, or use quantities

of or devices or equipment using quantities of byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially. General licenses are effective without the filing of applications with the department or the issuing of licensing documents to the user.

(5) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared, or ultraviolet light.

(6) "Large quantity radioactive material" means highway route controlled quantity as defined in 49 CFR 173.403.

(7) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency of a political subdivision, and any legal successor, representative, agent, or agency of the foregoing, other than the United States nuclear regulatory commission, any successor, or federal agencies licensed by the nuclear regulatory commission.

(8) "Registration" means the registering with the department by the legal owner, user, or authorized representative of sources of ionizing radiation in the manner prescribed by rule.

(9) "Source material" means uranium, thorium, or any other material that the department or the United States nuclear regulatory commission declares by order to be source material or ores containing one or more of the foregoing materials in a concentration that the department or the nuclear regulatory commission declares by order to be source material after the nuclear regulatory commission has determined the material in that concentration to be source material.

(10) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the department or the United States nuclear regulatory commission or any successor declares by order to be special nuclear material or any material artificially enriched by any of the foregoing but does not include source material.

(11) "Specific license" means a license issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment using quantities of byproduct, special nuclear materials, or other radioactive material occurring naturally or produced artificially."

{Internal References to 50-79-103:

50-79-301x}"

**Insert: "Section 2.** Section 50-79-104, MCA, is amended to read:

**"50-79-104. Exemptions -- sources, diagnosis, and therapy.**

(1) This chapter does not apply to the following sources or conditions:

(a) electrical equipment that is not intended primarily to

produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than one-tenth the appropriate limit for any critical organ exposed. The production testing or production servicing of such equipment is not exempt.

(b) radiation machines during process of manufacture or in storage or transit;

(c) any radioactive material while being transported in conformity with regulations adopted by the nuclear regulatory commission or any successor thereto or the interstate commerce commission and specifically applicable to the transportation of such radioactive materials.

(2) This chapter does not apply to:

(a) prospecting for uranium or thorium;

(b) mining or milling of uranium or thorium;

(c) disposal of waste or tailings from the prospecting for or the mining or milling of uranium or thorium;

(d) transportation of uranium or thorium ores, tailings, or wastes;

(e) possession of any source material related to prospecting for or the mining or milling of uranium or thorium; or

(f) any activity regulated by the department of environmental quality pursuant to Title 82, chapter 4.

~~(2)~~(3) No exemptions under this section are granted for those quantities or types of activities that do not comply with the established rules promulgated by the nuclear regulatory commission or by any successor ~~thereto~~ to that agency.

~~(3)~~(4) The provisions of this chapter may not be construed to limit the kind or amount of radiation that may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts."

{ Internal References to 50-79-104:

50-78-103x} "

**Insert: "NEW SECTION. Section 3. Negotiation for authority.** The department of environmental quality shall negotiate with the nuclear regulatory commission for an agreement allowing the department to regulate the disposal of tailings or waste from the milling of uranium or thorium."

**Insert: "NEW SECTION. Section 4. Contingent voidness.** If the department of environmental quality and the nuclear regulatory commission do not reach an agreement before July 1, 2009, allowing the department to regulate the disposal of tailings or waste from the milling of uranium or thorium, then [this act] is void. The director of the department of environmental quality shall notify the code commissioner when an agreement is reached."

**Insert: "NEW SECTION. Section 5. {standard} Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1 and 2] are effective July 1, 2009."